



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TRG
Docket No: 5223-99
29 December 1999

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, an enlisted member of the United States Navy filed enclosure (1) with this Board requesting, in effect, that the record be corrected to show that he was not reduced in rate on 22 July 1998.

2. The Board, consisting of Mr. Kastner, Mr. Bartlett and Mr. Pfeiffer, reviewed Petitioner's allegations of error and injustice on 15 December 1999 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner reenlisted in the Navy on 17 December 1996 for five years. At that time he had completed six years of active service on a prior enlistment.

d. On 22 July 1998 Petitioner received nonjudicial punishment for drunk driving and received forfeitures of pay of \$796 and a reduction in rate from GSE2 (E-5) to GSE3 (E-4). On 10 December 1998, his command submitted a court memorandum stating that the reduction in rate was in error and he had not been reduced in rate at the NJP.

e. Apparently this action did not result in Petitioner being paid as a GSE2. On 22 March 1999 the command submitted

another court memorandum stating that he had been reinstated to GSE2 as of 10 December 1998.

f. Petitioner states that he began being paid as a GSE2 on 1 April 1999. He requests that the record be corrected so that he can receive the pay of a GSE2 from the date of his reduction on 22 July 1998 until 1 April 1999.

g. The Board is aware that the command made an error when they used the term "reinstatement" in the action of 22 March 1999 since it is clear that the action was taken in order to correct an error in the record of the 22 July 1998 NJP, and not reinstate Petitioner in rate as of a later date.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. In reaching its decision, the Board notes that it was clearly the command's intent to correct the record to show that he was not reduced at the 22 July 1998 NJP. Therefore, the Board concludes that the record should be corrected to show that he was not reduced on 22 July 1998 but has continued to serve as a GSE2 continuously since then.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was not reduced at the 22 July 1998 NJP but continued to service as a GSE2 continuously since then. This corrective action should include but not necessarily be limited to removal of the words "RIR to GSE3 E-4" from the court memorandum of 22 July 1998, and removal from the record of the court memorandum of 10 December 1998.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and

complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director